

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHRISTOPHER EDDINGS,

Petitioner,

v.

CASE NO. 2:06-CV-11215
HONORABLE ARTHUR J. TARNOW

THOMAS BIRKETT,

Respondent.

**ORDER GRANTING MOTIONS FOR A CERTIFICATE OF APPEALABILITY
AND FOR LEAVE TO PROCEED ON APPEAL *IN FORMA PAUPERIS***

This matter is before the Court on Petitioner's motions for a certificate of appealability and for leave to proceed on appeal *in forma pauperis* concerning the Court's denial of his habeas petition.

This Court denied Petitioner's habeas claim on the merits. A certificate of appealability may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). When a federal district court rejects a habeas claim on the merits, the substantial showing threshold is met if the petitioner demonstrates that reasonable jurists would find the district court's assessment of the constitutional claim debatable or wrong. *See Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000). "A petitioner satisfies this standard by demonstrating that . . . jurists could conclude the issues presented are adequate to deserve encouragement to proceed further." *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). In applying this standard, a district court may not conduct a full merits review, but must limit its

examination to a threshold inquiry into the underlying merit of the petitioner's claims. *Id.* at 336-37.

Petitioner asserts that the prosecution presented insufficient evidence of guilt to support his first-degree felony murder conviction. While the Court has concluded that the prosecution presented sufficient evidence of Petitioner's guilt to support his conviction such that his federal constitutional rights were not violated, the Court believes that Petitioner has made a substantial showing of the denial of a constitutional right. The issue presented is adequate to deserve encouragement to proceed further. Accordingly, the Court **GRANTS** Petitioner's motion for a certificate of appealability. Given this determination, the Court **GRANTS** Petitioner's application to proceed *in forma pauperis* on appeal. *See* Fed. R. App. P. 24(a).

SO ORDERED.

S/Arthur J. Tarnow
Arthur J. Tarnow
United States District Judge

Dated: November 20, 2007

I hereby certify that a copy of the foregoing document was served upon counsel of record on November 20, 2007, by electronic and/or ordinary mail.

S/Catherine A. Pickles
Judicial Secretary